

S.D.N.Y.  
12-cv-2826  
Cote, J.

United States Court of Appeals  
FOR THE  
SECOND CIRCUIT

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At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, at 40 Foley Square, in the City of New York, on the 26<sup>th</sup> day of March, two thousand thirteen.

Present:

Richard C. Wesley,  
Debra Ann Livingston,  
Gerard E. Lynch,  
*Circuit Judges.*

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Bob Kohn,

*Appellant,*

v.

12-4017

United States of America,

*Plaintiff-Appellee,*

Verlagsgruppe Georg Von Holtzbrinck GMBH,  
Holtzbrinck Publishers, LLC, DBA Macmillan,  
The Penguin Group, A Division of Pearson PLC,  
Penguin Group (USA), Inc., Hachette Book Group, Inc.,  
HarperCollins Publishers L.L.C., Simon & Schuster, Inc.,

*Defendants-Appellees,*

Apple, Inc.,

*Defendant.*

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Appellee United States of America moves to dismiss for lack of standing Appellant's appeal from the district court's denial of his motion to intervene under Rule 24(b) of the Federal Rules of Civil Procedure. Upon due consideration, it is hereby ORDERED that the motion, construed as also requesting summary affirmance of the district court's judgment, is GRANTED. We may review a district court order denying permissive intervention as a final order. *Ionian Shipping Co. v. British Law Ins. Co.*, 426 F.2d 186, 189 (2d Cir. 1970). However, assuming arguendo that Appellant has standing to appeal the denial of his motion to intervene, the district court did not abuse its discretion in denying permissive intervention as Appellant did not satisfy the requirements of Rule 24(b). See *H.L. Hayden Co. of N.Y., Inc. v. Siemens Med. Sys., Inc.*, 797 F.2d 85, 89 (2d Cir. 1986) (stating that permissive intervention pursuant to Rule 24(b) "is discretionary with the trial court").

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk

 